

State Dept. review completedTHE UNDER SECRETARY OF STATE
WASHINGTONSECRET/EXDIS

12 MAR 1971

MEMORANDUM FOR THE 40 COMMITTEE

Subject: Radio Free Europe (RFE) and
Radio Liberty (RL)Background

At its meeting of March 31, 1971, the 40 Committee agreed that the concept of creating an independent agency or other public-private mechanism for channeling publicly appropriated funds to RFE and RL should be examined. The Committee asked for a draft Bill and on April 7, 1971, was given a draft designed to create an "American Council for Private International Communications." The draft Bill was modelled on the "Public Broadcasting Act of 1967" (PL 90-129).

At its meeting of April 14, 1971, the Committee approved the State/CIA recommendation that preliminary soundings of Congressional opinion be undertaken "in order to obtain a reading on whether the proposal should be presented officially to the Senate." In light of this decision, the Department of State 1) submitted the draft Bill to OMB so that the appropriate clearance process could be undertaken and the Bill readied for prompt submission to the Senate should the Committee so decide; 2) requested and obtained from Senator Case a change in the proposed date for hearings on RFE/RL in the Senate Foreign Relations Committee from April 28 to May 24; 3) conducted explorations, jointly with CIA, of Congressional opinion in accordance with the plan presented to the Committee with its memorandum of April 7, 1971 (Tab A).

Results of ConsultationsA. Prospects for Continued Funding of RFE/RL
through the CIA Budget

In accordance with the expressed desire of the

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Committee, consultations included examination of continued covert funding of RFE/RL through the CIA budget. During the course of the Congressional soundings, the Chairmen of the Senate and House Appropriations Committees expressed strong opposition to funding the Radios through CIA beyond June 30, 1971. The Chairmen are unwilling to include an appropriation for the Radios as they maintain that this would probably jeopardize the individual appropriations not only of CIA but other Executive agencies as well. In their view, this could come about as certain Committee members apparently intend to use the Radio funding question to expose, and attempt to discredit, sensitive activities carried out by the Executive branch. It was the judgment of the CIA and State Department offices for Congressional Relations that Senator Ellender and Representative Mahon would "under no circumstances" ask their Committees to include funds for the Radios in the CIA budget for FY 1972.

B. Prospects for Interim Funding of RFE/RL through the CIA Budget until a New Mechanism is Established

In view of the attitude of the Chairmen of the Appropriations Committees with regard to continuation of the status quo, their views were sought on the feasibility of funding the Radios through the CIA budget on the basis of a continuing resolution until such time as a new, public mechanism had been authorized and granted funds by Congress. The Chairmen somewhat reluctantly indicated this could be done for a few months--perhaps until the August recess, by which time the DOD FY 1972 budget is expected to be approved. This solution would provide funds for an additional 30 to 60 days, but no longer. Apart from the fact that the two Chairmen appear reluctant to use a continuing resolution, such a course is not deemed advisable for two reasons:

1. If there has been a hearing on CIA's "black budget" prior to June 30, as is expected, and if CIA has been formally advised that its FY 1972 budget cannot include funds for the Radios, the legality of using funds

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for this purpose under a continuing resolution is open to question.

2. Even if interim funds for the Radios could be secured on the basis of a continuing resolution for the DOD budget, a budgetary hiatus would occur if the Department of Defense budget is appropriated prior to action on appropriations for the proposed Council.

CIA has explored alternative methods of securing funds for the Radios to cover the period until an appropriation is made under the terms of the draft Bill creating the American Council for Private International Communications, Incorporated. It is not feasible to provide money from CIA reserves since the constraints imposed by the Appropriations Committee Chairmen in refusing covert appropriations in FY 1972 would be equally applicable to the use of reserve funds. Moreover, current requirements against the reserve funds are of such a priority nature that CIA cannot allow their use for the Radios unless assured that they would be replenished in full. CIA has also inquired of OMB whether transfer in FY 1971 of the required funds (CIA programmed [redacted] for the Radios in FY 1972)

[redacted] is feasible. OMB advises that [redacted] funds are not available unless higher authority orders them released. OMB also feels that such funds, if available, could not be used for this purpose without Congressional concurrence.

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As of now, therefore, no satisfactory method for interim funding has been developed, and there is a real possibility that the Radios will be without financial support at the beginning of FY 1972. Should this occur, liquidation procedures would have to be promptly initiated, and it is estimated that these costs are likely to exceed the combined annual budgets of the two organizations. However, in the above situation, funds are not available even for this purpose.

In light of these circumstances, it would appear that the only conceivable method of ensuring the orderly

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funding of the Radios until they come under the supervision of the proposed Council is to fund them for FY 1972 out of overall year-end FY 1971 savings. This would be tantamount to channelling unused, publicly appropriated, non-CIA funds to a use which would, for the interim, still be under CIA control (although the May 24 Senate Hearings will have, by the end of FY 1971, yielded a clear government acknowledgment that it funds the Radios).

C. Prospects for passage in Senate and House of the Authorization Bill in its present form

OMB anticipates clearing the draft Bill with minor technical changes within the next few days during which time it will discuss Treasury's reluctance to be used as a funding channel for the Council. As the result of our review of the concepts in the draft Bill with Senator Case, he has indicated general agreement with it and expressed a willingness to act as its sponsor in its present form possibly with some modifications regarding the appointment of members of the Board of Directors. As a result, we believe the Bill's prospects in the Senate Foreign Relations Committee are good. In addition, Congressman Reid has also indicated his support, which should aid our testimony before the House Foreign Affairs Committee whose chairman, Representative Morgan, has also been briefed on the draft Bill. Other Senators and Congressmen, during the consultations, initially questioned the need for a new government entity in lieu of funding the Radios through State or USIA, but subsequently agreed with the approach in the draft Bill. Presently there is no known opposition.

We believe that there are reasonably good prospects for passage of an authorizing Bill of the type envisaged (Tab B) in the Senate and House with the support of a liberal-conservative coalition with Case and Reid heading up the liberal side.

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D. Prospects of Appropriations being Approved
once Authorizing Bill is passed

Chairman Ellender, after some discussion, indicated that he would not actively support the Bill but that he would not obstruct it. He indicated his strong intention of having his appropriations bills pass the Senate prior to the August recess, although Chairman Mahon had indicated his belief that the Defense Appropriations Bill will carry over in the House until after the August recess. In other consultations, questions were raised concerning the Radios' funding levels in view of the dollar crisis and moves to retrench on our foreign expenditures.

Conclusions

The exploratory consultations have, unfortunately, produced more clarity on the impossibility of maintaining the present method of funding RFE/RL than on the possibility of funding the Radios reliably through a new publicly funded entity. Furthermore, they have revealed that the question of creating a new entity and obtaining funds for it is urgent in view of the strong reluctance of the Appropriations Committee chairmen to continue the present funding system into FY 1972.

The limited explorations of Congressional views suggest that there are "reasonably good prospects" of getting adequate support for an authorizing bill establishing an American Council on Private International Communications. However, in view of the current inclination in Congress to cut foreign expenditures, it will take a strong effort by the Administration if funding for the Radios is to be maintained at the present level.

It is therefore concluded that virtually the only choice open to the Administration on the problem of funding RFE/RL is to proceed with the draft Bill. It is further concluded that personal involvement by the President will be required in order to get across to key Congressional leaders 1) the need to give the Bill

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priority in order to get it considered prior to or early in FY 1972; 2) the importance of continuing to fund the Radios at the present level.

Recommendations

1. The 40 Committee is asked to recommend to the President that he approve the draft Bill (Tab B) for submission to Congress prior to the Senate Foreign Relations Committee hearings on the Radios now scheduled for May 24.

2. The 40 Committee is asked to recommend that the President, during the period prior to the Senate hearings, emphasize to the Congressional leadership the importance of expediting this legislation and of continuing the present level of funding of the Radios.

3. The 40 Committee is asked to recommend to the President that, until a new entity can be created and granted appropriations to fund the Radios, he authorize, with the concurrence of Congressional leaders: (a) the funding of the Radios at the present level out of overall FY 1971 US budgetary savings since there are no FY 1972 funds available to CIA for this purpose; and (b) the recognition of this interim funding by the State Department press officer, or other appropriate officers, if asked.

4. The 40 Committee is asked to approve the continuation of consultation by State and CIA with key members of Congress (Tab C) to obtain additional support on a broader basis prior to the Senate Foreign Relations Committee Hearings scheduled for May 24. Some of the present members of RFE/RL Boards (Tab D), might be used to contact members of Congress with whom they have personal contact. Outstanding public witnesses should be contacted for the hearings.

5. The 40 Committee is asked to recommend that the Treasury, as a department which disburses funds to a wide variety of independent entities and is not involved in the direct conduct of diplomacy or programs in the Communist countries, be designated as the channel for disbursing publicly appropriated funds to the new entity to be created to fund the Radios. (A copy of the letter from Treasury to OMB giving its position on this is at Tab E.)

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6. The attention of the 40 Committee is invited to the subject of recommending a Chairman of the Board of the American Council for Private International Communications, Incorporated in order to provide during Congressional consultations an idea as to the caliber of the Board envisaged for the Council. Names such as those of Dr. Milton Eisenhower, Ambassador Robert D. Murphy, Ambassador Llewellyn E. Thompson, and Governor William Scranton, suggest themselves.

U.A.S.
by [signature]
U. Alexis Johnson

Attachments:

- Tab A - Explorations of Congressional Opinion
in April-May 1971
- Tab B - Draft Bill providing for establishment
of American Council for Private
International Communications, Inc.
- Tab C - Foreign Relations and Appropriations
Committees of the House and Senate
- Tab D - RFE and RL Boards of Directors
- Tab E - Treasury Department letter to OMB

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Congressional Consultations in Connection with the
Administration's Proposal for an American Council for
Private International Communications, Incorporated (ACPIC)

After clearance by the 40 Committee on April 14, 1971 of the draft legislation (Tab B) initial contacts were made with Senator Case and Representative Reid to explain to them the basic provisions of the proposal and to obtain their approval. They were informed that we intended to conduct additional limited consultations to ascertain whether there would be support for Congressional funding of the Radios through the proposed new corporation. These additional consultations included:

Senators

Hugh Scott
Allen J. Ellender

Representatives

Carl Albert
Gerald Ford
William Mailliard
George H. Mahon
Thomas Morgan

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DRAFT BILL

To provide for the establishment of an American Council

for Private International Communications, Incorporated,
to grant support to the activities of private American
organizations engaged in the field of communication
with foreign peoples.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress Assembled: That
this Act may be cited as the "American Council for Private
International Communications, Incorporated Act of _____."

CONGRESSIONAL DECLARATION OF POLICY

SECTION I. The Congress hereby finds and declares --

(a) That, everyone has the right to freedom of opinion and
expression; this right includes freedom to hold opinions
without interference and to seek, receive and impart information
and ideas through any media and regardless of frontiers;

(b) That the existence of open communication among the peoples of the world is a matter of continuing concern to the American people and a positive contribution to international stability;

(c) That a free flow of information and ideas will encourage other peoples to enhance their social, political, and material well-being and will increase their awareness of the heritage they share with other peoples, including the American people;

(d) That established private organizations in the communications field have demonstrated their effectiveness in furthering the foregoing objectives; and

(e) That in the interest of implementing the above objectives, it is desirable to establish an American Council for Private International Communications, Incorporated, which, by assistance to American private organizations, will enable the private sector of American life to participate in and contribute its skills to a constructive dialogue with peoples of other lands.

ESTABLISHMENT OF A CORPORATION

SECTION II. There is hereby authorized to be established a nonprofit corporation to be known as the American Council for Private International Communications, Incorporated (hereinafter referred to as the "corporation"), which will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this Act, and, to the extent consistent therewith, to the District of Columbia Nonprofit Corporation Act.

ORGANIZATION AND MANAGEMENT

SECTION III. (a) Structure of the Corporation -- The corporation shall have a Board of Directors, a President, an Executive Vice President and such other officers and staff as the Board of Directors may determine.

(b) Board of Directors -- (1) The corporation shall have a Board of Directors (hereinafter referred to as the "Board"), consisting of fifteen members, including a Chairman and a Vice Chairman all of whom shall be appointed by the President of the United States with the advice and consent of the Senate.

(2) Selection -- All members of the Board shall be citizens of the United States who are not regular fulltime employees of the United States Government, and

shall be selected from areas of professional, business and cultural life relevant to the objectives of the corporation.

(3) Incorporation -- The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the corporation under the District of Columbia Corporation Act.

(4) Term of Office -- In appointing the initial membership of the Board the President shall designate eight members, including the Chairman and Vice Chairman to serve from the date of incorporation for six years and seven members to serve from the date of incorporation for four years. Thereafter the term of office of each member of the Board, including the Chairman and Vice Chairman, shall be six years, renewable at the discretion of the President of the United States with the advice and consent of the Senate. Notwithstanding the foregoing provisions of this paragraph; (A) the President of the United States shall appoint members to fill vacancies occurring prior to the expiration of a term, in which case the member so appointed shall serve for the remainder of such term;

(B) any member whose term has expired may serve until his successor has qualified.

(5) Quorum -- Vacancies in the Board, so long as there are eight directors in office, shall not impair the powers of the Board to execute the functions of the corporation, and eight of the directors in office shall constitute a quorum for the transaction of the business of the Board.

(6) Committees -- The Board may create such committees of its own members as it finds to be in the best interests of the corporation, which committees shall have and may exercise the powers of the Board in the management of the business and affairs of the corporation.

(7) Vice Chairman -- The Vice Chairman shall perform the duties of the Chairman in his absence, and should a vacancy in the Chairmanship occur, the Vice Chairman shall act as Chairman pending the appointment of a new Chairman by the President of the United States.

(8) Compensation -- The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States Government. They shall,

while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this section, including travel time, be entitled to receive compensation equal to the daily equivalent of the compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(9) Meetings -- The Board shall convene at least twice annually and at such times as the Chairman may determine, but the Chairman shall also call a meeting at the written request of at least one-third of the members of the Board.

(c) Officers and Employees -- (1) The corporation shall have a President, Executive Vice President and such other officers as may be named by the Board. All officers shall be citizens of the United States and shall serve at the pleasure of the Board. No political test or qualification shall be used by the Board in selecting, appointing,

promoting, or taking other personnel actions with respect to officers, agents, and employees of the corporation.

(2) President -- The President of the corporation shall be its chief executive officer and responsible for the operations and management of the corporation subject to this Act and such by-laws and policies established by the Board.

(3) Compensation -- The President shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5311 of title 5, United States Code. Other officers appointed by the Board or employees appointed by the President of the corporation shall receive compensation as set by the Board which shall not exceed the maximum rate prescribed for GS-18 in the General Schedule of section 5332(a) of title 5, United States Code.

PURPOSES AND ACTIVITIES OF THE CORPORATION

SECTION IV. In furtherance of the objectives and to carry out the purposes of this Act as set forth in SECTION I, the corporation is authorized to (a) contract with, or render

financial assistance, including grants, under such terms and conditions as the Board may approve to those private American organizations with established programs of broadcasting to other countries, or with other selected activities in the international mass media field, which organizations receive no other appropriated funds of the United States Government and which demonstrate their effectiveness in promoting the free movement of information and ideas across national frontiers thereby strengthening channels of communication among the peoples of the world.

(b) to develop and apply procedures, including audits, as may be necessary to ensure that funds so granted are applied in accordance with the purposes for which each such grant is made.

(c) to give particular encouragement and assistance to those American private organizations which (1) are in turn qualified to enlist financial and other support from American private organizations, industry and individuals;

(2) enjoy or are capable of enlisting cooperation or financial support from international or foreign organizations which share these objectives;

(d) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(e) to make and perform contracts when deemed necessary to carry out its objectives;

(f) to make and renew financial commitments in furtherance of its objectives for periods up to five years;

(g) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the corporation, all donations being tax-deductible by the donor as charitable contributions, and to use, sell or otherwise dispose of such property for the carrying out of its functions;

(h) to obtain from time to time as appropriate, the services of experts and consultants to aid the corporation in accordance with the carrying out of the purposes of this Act;

(i) to accept and utilize on behalf of the corporation the services of voluntary and uncompensated personnel from private life and to reimburse them for travel expenses, including per diem, as appropriate;

(j) to rent office space in the District of Columbia and elsewhere as necessary to its purposes;

(k) to make all other expenditures necessary to carry out the purposes of this Act.

ANNUAL REPORT

SECTION V. The corporation shall on or before the 31st day of January of each year submit an annual report, with financial appendices as appropriate, on its activities under this Act during the preceding calendar year to the President of the United States, who shall thereafter forward such report to the Congress, together with such recommendations as he may deem appropriate. Such report shall include a list of the grants made by the corporation during the preceding calendar

year; a statement of the use to which each recipient applied any grant received during the preceding calendar year; and any recommendations which the corporation may deem appropriate.

VENUE AND LIABILITY

SECTION VI. For purposes of venue in civil actions, the corporation shall be deemed a resident of the judicial district of Washington, D. C.

NONPROFIT NATURE OF THE CORPORATION

SECTION VII. The purposes of the corporation shall be exclusively educational and not for profit and no part of the income or assets of the corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services. The corporation, including its property and income, shall be exempt from taxation now or hereafter imposed by the United States or any territory or possession thereof.

AUDIT

SECTION VIII. The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or

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SECTION VIII. The accounts of the corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or

independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report. The financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. A report of each such audit shall be made by the Comptroller General to the Congress. A copy of each report shall be furnished to the President and to the corporation at the time it is submitted to the Congress.

FINANCING

SECTION IX. (a) To enable the corporation to carry out its powers and duties, there is authorized to be appropriated to the Department of the Treasury to be disbursed to the corporation, out of any money in the Treasury not otherwise appropriated, not to exceed \$ _____ for the period

_____. Except for funds appropriated under this section, no funds appropriated after the date of enactment of this section for any fiscal year, under this or any other provision of law, may be made available to or for the use of the corporation.

(b) Appropriations made pursuant to the authority provided in subsection (a) of this subsection shall remain available until expended.